

REGULAR WEEKLY SESSION---ROANOKE CITY COUNCIL

October 23, 2003

2:00 p.m.

The Council of the City of Roanoke met in regular session on Thursday, October 23, 2003, at 2:00 p.m., the regular meeting hour, in the City Council Chamber, fourth floor, Noel C. Taylor Municipal Building, 215 Church Avenue, S. W., City of Roanoke, Virginia, with Mayor Ralph K. Smith presiding, pursuant to Chapter 2, Administration, Article II, City Council, Section 2-15, Rules of Procedure, Rule 1, Regular Meetings, Code of the City of Roanoke (1979), as amended, and pursuant to Resolution No. 36414-070703 adopted by Council on Monday, July 7, 2003.

PRESENT: Council Members Linda F. Wyatt, William D. Bestpitch, M. Rupert Cutler, Alfred T. Dowe, Jr., Beverly T. Fitzpatrick, Jr., C. Nelson Harris, and Mayor Ralph K. Smith-----7.

ABSENT: None-----0.

OFFICERS PRESENT: Darlene L. Burcham, City Manager; William M. Hackworth, City Attorney; Jesse A. Hall, Director of Finance; and Mary F. Parker, City Clerk.

The Invocation was delivered by The Reverend Harry M. Miller, Jr., Pastor, Roanoke Valley Cathedral of Praise.

The Pledge of Allegiance to the Flag of the United States of America was led by Mayor Ralph K. Smith.

PRESENTATION AND ACKNOWLEDGMENTS:

ACTS OF ACKNOWLEDGMENT-NATIONAL LEAGUE OF CITIES: The Mayor presented a \$1000.00 check to The History Museum and Historical Society of Western Virginia, in recognition of the City of Roanoke being selected as a winner of the 2003 James C. Howland Awards.

PROCLAMATIONS-DISABLED PERSONS: The Mayor presented a proclamation declaring the month of October 2003, as National Disability Employment Awareness Month.

PROCLAMATIONS-FIRE DEPARTMENT: The Mayor presented a proclamation declaring Sunday, October 26, 2003, as Change Your Clock, Change Your Battery Day.

CONSENT AGENDA

The Mayor advised that all matters listed under the Consent Agenda were considered to be routine by the Members of Council and would be enacted by one motion in the form, or forms, listed on the Consent Agenda, and if discussion was desired, that item would be removed from the Consent Agenda and considered separately. He called specific attention to one closed session.

MINUTES: Minutes of the regular meeting of Council held on Tuesday, September 2, 2003; and recessed until Friday, September 5, 2003, were before the body.

Mr. Cutler moved that the reading of the minutes be dispensed with and that the minutes be approved as recorded. The motion was seconded by Mr. Bestpitch and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

COMMITTEES-CITY COUNCIL: A communication from Mayor Ralph K. Smith requesting that Council convene in a Closed Meeting to discuss vacancies on certain authorities, boards, commissions and committees appointed by Council, pursuant to Section 2.2-3711 (A)(1), Code of Virginia (1950), as amended, was before the body.

Mr. Cutler moved that Council concur in the request of the Mayor to convene in a Closed Meeting as above described. The motion was seconded by Mr. Bestpitch and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

CITY COUNCIL-ROANOKE ARTS COMMISSION-HOUSING/AUTHORITY: A report of qualification of Susannah Koerber as a member of the Roanoke Arts Commission, for a term ending June 30, 2006; and Joseph F. Lynn as a Commissioner of the Roanoke Redevelopment and Housing Authority, for a term ending August 31, 2007, was before Council.

Mr. Cutler moved that the report of qualification be received and filed. The motion was seconded by Mr. Bestpitch and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

REGULAR AGENDA

PUBLIC HEARINGS: NONE.

PETITIONS AND COMMUNICATIONS: NONE.

REPORTS OF OFFICERS:

CITY MANAGER:

The City Manager introduced Gareth McAllister, Facilities Manager.

ITEMS RECOMMENDED FOR ACTION:

BUDGET-CITY INFORMATION SYSTEMS-SCHOOLS-WATER RESOURCES: The City Manager submitted a communication advising that the Information Technology Committee (ITC) has completed review of technology projects and equipment needs throughout the City of Roanoke and developed a list of recommendations that were determined to meet the goals of the Information Technology Strategic Plan, as set forth in an attachment to the communication; and all items will be purchased in accordance with requirements as set forth in Chapter 23.1, Procurement, of The Code of the City of Roanoke, 1979, as amended.

It was further advised that the Department of Technology, an internal service fund, currently has retained earnings available for appropriation in the amount of \$1,125,000.00 that can be allocated for technology needs; and funding in the amount of \$1,566,635.00 is available from the following sources:

- | | |
|--|--------------|
| • Capital Funding included in the FY04 Technology Budget | \$541,338.00 |
| • Debt Service savings due to bond refunding | 350,000.00 |
| • Water and Sewer Fund Retained Earnings | 380,000.00 |
| (Replacement of utility billing systems server and fund 50% of Work Management System) | |

• School Fund - Year 1 of 10 (total funding commitment of \$1.5 million for Financial Application Systems Project)	150,000.00
• Help America Vote Act grant funding for voting machines	100,000.00
• Reallocation of Existing Project Tracking System Funds	34,947.00
• Roanoke Valley Libraries (RVL)	10,350.00
Total	\$ 1,566,635.00
The total of all funding sources available for appropriation is \$ 2,691,635.00	

The City Manager recommended that Council adopt an ordinance to appropriate funds to new or existing project accounts to be established by the Director of Finance in order to support strategic technology needs and enhancements.

Mr. Harris offered the following ordinance:

(#36517-102303) AN ORDINANCE appropriating funding to various technology projects, amending and reordaining certain sections of the 2003-2004 General, Water, Water Pollution Control, Parking, Technology, and School Funds Appropriations, and dispensing with the second reading by title of this ordinance.

(For full text of Ordinance, see Ordinance Book No. 68.)

Mr. Harris moved the adoption of Ordinance No. 36517-102303. The motion was seconded by Ms. Wyatt and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

POLICE DEPARTMENT-BUDGET-FIRE ARMS-GRANTS: The City Manager submitted a communication advising that various law enforcement agencies often participate with the ATF in criminal investigations; and property seized in a criminal investigation, in which other law enforcement agencies participate, is divided among the ATF and participating agencies.

It was further advised that the City of Roanoke Police Department has received \$100,306.50 from ATF as its share of property seized as a result of a criminal investigation; revenue received is available for appropriation in Revenue Account No. 035-640-3335-3346 and must be used for training and equipment for the department; the City of Roanoke and Roanoke County are now working together in development of a regional driver training facility; up to \$70,000.00 of ATF revenue will be used to fund a portion of the City's share of development costs associated with the regional driving range; and the remainder of funds will be used for

equipment related purchases for the department.

It was stated that action by Council is required to appropriate funds to the Grant Fund - ATF line item expense accounts and to increase estimate revenues for same.

The City Manager recommended that Council appropriate funds totalling \$100,306.00 for the ATF One-time Deposit, and establish a revenue estimate in the same amount in Account No. 035-640-3335-3346 in the Grant Fund:

<u>Description</u>	<u>Object Code</u>	<u>Amount</u>
Construction - Other	9065	\$ 70,000.00
Equipment	9005	<u>30,306.00</u>
Total		\$100,306.00

Mr. Fitzpatrick offered the following ordinance:

(#36518-102303) AN ORDINANCE appropriating funds for the Alcohol, Tobacco, and Firearms Grant, amending and reordaining certain sections for the 2003-2004 Grant Fund Appropriations, and dispensing with the second reading by title of this ordinance.

(For full text of Ordinance, see Ordinance Book No. 68.)

Mr. Fitzpatrick moved the adoption of Ordinance No. 36518-102303. The motion was seconded by Mr. Dowe and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

PARKS AND RECREATION-SCHOOLS: The City Manager submitted a communication advising that the Parks and Recreation Department opened its first fitness center in partnership with the Roanoke Public Schools at Breckinridge Middle School in October 1997, which was followed by fitness center openings at Woodrow Wilson Middle School in November 1998, Addison Middle School in December 1999 and Jackson Middle School in February 2001; and the original agreement for Woodrow Wilson Middle School expired on October 14, 2003.

It was further advised that the Roanoke City Public Schools use the fitness room and equipment for physical education classes and sports conditioning; and the Parks and Recreation Department operates the facility as a fitness center, open to the general public during non-school hours.

It was explained that the current one year agreement with the Roanoke City School Board, with an option to renew for four additional one-year terms, expired on October 14, 2003; the current agreement was authorized by Council pursuant to Ordinance No. 34029-100798; minor revisions have been made to the current agreement; and it is requested that the revised agreement be continued for an additional term of one year, with an option to renew for up to four additional one-year terms, ending October 31, 2008.

The City Manager recommended that she be authorized to execute the necessary documents, in a form to be approved by the City Attorney, to continue operation of the Woodrow Wilson Middle School Fitness Center.

Mr. Harris offered the following resolution:

(#36519-102303) A RESOLUTION authorizing the City Manager to execute an agreement between the City of Roanoke School Board and the City of Roanoke, allowing the City to operate a fitness center at the Woodrow Wilson Middle School for use by the general public, upon certain terms and conditions.

(For full text of Resolution, see Resolution Book No. 68.)

Mr. Harris moved the adoption of Resolution No. 36519-102303. The motion was seconded by Mr. Dowe and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

Nays: None-----0.

BUDGET-GRANTS: The City Manager submitted a communication advising that on September 25, 2003, the U. S. Department of Housing and Urban Development announced that the City of Roanoke had been awarded a \$1,543,704.00 grant for the Lead Hazard Control Grant Program, the goal of which is to forge partnerships between local government departments, public agencies, faith-based groups and community-based non-profit organizations to educate the community regarding the hazards of lead, and to identify and control lead-based paint in homes with children less than six years of age; the program will focus on three key objectives: outreach/education and training, health screening, and lead hazard control/abatement/reduction; and a Lead-Safe Advisory Council has been established to help guide implementation of the program.

It was further advised that the required 20 per cent matching funds level for the grant was exceeded and is comprised solely of in-kind support provided by participating departments and agencies; and the grant was authored and submitted in collaboration with Randall Funding and Development, Inc., the firm with which Council authorized execution of a contract for grant writing services.

It was explained that childhood lead poisoning is a serious problem in the City of Roanoke, especially in the urban core, which is the target of the program; one in 18 children younger than six years of age who were diagnosed in Virginia between 1995 and 2001 as having contracted lead poisoning came from the City of Roanoke; almost all of the housing stock in the inner City's neighborhoods was built before 1978, the year that lead-containing paint was banned; housing age and socioeconomic conditions in these areas contribute to the high level of risk for childhood lead poisoning; and the Lead Hazard Control Grant Program will educate the public about the issue of lead and how to keep children safe, test at least 1,000 children younger than six for lead poisoning, provide at least 500 lead-safe cleaning kits to residents, provide grants to property owners to abate or to neutralize 100 housing units occupied by one or more children younger than six years of age, and purchase a small, mobile house, which can be used to demonstrate how to keep clean a home with lead-based paint.

The City Manager recommended that she be authorized to accept the grant award and to execute the grant agreement and other related documents, to be approved as to form by the City Attorney, and establish revenue and expenditure estimates of \$1,543,704.00 in the Grant Fund in an account to be established by the Director of Finance entitled, "Lead Hazard Control Grant".

Mr. Dowe offered the following ordinance:

(#36520-102303) AN ORDINANCE appropriating funds for the Lead Hazard Control Grant, amending and reordaining certain sections of the 2003-2004 Grant Fund Appropriations, and dispensing with the second reading by title of this ordinance.

(For full text of ordinance, see Ordinance Book No. 68.)

Mr. Dowe moved the adoption of Ordinance No. 36520-102303. The motion was seconded by Mr. Cutler.

Ms. Evelyn D. Bethel, 35 Patton Avenue, N. E., inquired if a program is available for abatement of lead in its entirety. She advised that as persons travel throughout the City of Roanoke and Roanoke County, the air they breath is constantly being polluted.

Mr. Cutler advised that the Environmental Protection Agency required the manufacturers of gasoline to remove tetra ethyl lead from gasoline several years ago, therefore, there is far less lead emission in the environment.

Ordinance No. 36520-102303 was adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

Mr. Fitzpatrick offered the following resolution:

(#36521-102303) A RESOLUTION authorizing the acceptance of a grant from the United States Department of Housing and Urban Development, in the amount of \$1,543,704.00, for the Lead Hazard Control Grant Program; and authorizing the City Manager to execute the requisite grant agreements.

Mr. Fitzpatrick moved the adoption of Resolution No. 36521-102303. The motion was seconded by Mr. Dowe and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

POLICE DEPARTMENT-CITY CODE: The City Manager submitted a communication advising that the Roanoke Police Academy, located at The Jefferson Center, a Virginia Department of Criminal Justice Services (DCJS) certified independent criminal justice academy, currently operates in limited space; space confinement forces the Academy to conduct classes off campus, to use current space for completing multiple functions, and makes it impossible for the Academy to expand; therefore, relocation of the Academy has become necessary and essential for continued success in providing mandated training in a timely manner.

It was further advised that funds need to be identified for expenses associated with relocation of the Academy; a possible source for such funding can be found in Section 9.1-106, Code of Virginia, (1950), as amended, concerning criminal justice training academy fees, which was amended and reenacted on April 2, 2003, (House Bill 2511, Senate Bill 1345); effective July 1, 2003, Section 9.1-106 Code of Virginia, states that upon conviction of citizens for certain traffic and criminal charges, certain fees as provided in Sections 16.1-69.48.1, 17.1-275.1, 17.1-275.2, 17.1-275.3, 17.1-275.4, 17.1-275.7, 17.1-275.8, and 17.1-275.9 will be assessed as court cost; and the amount collected, in whole or in part, for the fixed fee is being apportioned, as provided by law, with the Regional Criminal Justice Training Academy Fund receiving a share; and the State's fee is currently set at \$1.00.

It was explained that Section 9.1-106 also authorizes localities, including the City of Roanoke, which do not participate in a regional training academy and operate a certified independent criminal justice academy as of January 1, 2003, to charge similar in nature fees; however, it mandates that any and all funds from such local fee shall support the certified independent local criminal justice academy; other localities were surveyed as to eligibility and to determine fees charged; and of those localities which qualify and have enacted a fee, Chesapeake, Chesterfield County, and Richmond charge a fee of \$1.00, while Virginia Beach has enacted a \$5.00 fee.

It was noted that based on and pursuant to Section 9.1-106 of the Code of Virginia, the City Attorney has prepared an ordinance, which provides for an effective date of November 1, 2003, and for the assessment of \$3.00 to be imposed

in every case in which costs are assessable; the Clerks of the District and Circuit Courts will change and collect the assessment as a part of bills taxed as costs; and after collections by the Clerk of the Court in which the case is heard, the assessment will be remitted to the City Treasurer and held subject to appropriation by Council.

It was advised that projected City revenues from the additional assessment are currently estimated to be approximately \$54,000.00 per year and would be used to help fund expenses associated with relocation of the academy; Roanoke County Police Department recruits also attend the academy; and since Roanoke County does not qualify for a new fee, the County has agreed to share in the expenses of developing a new academy, the cost of which has yet to be determined.

The City Manager recommended that Council adopt an ordinance amending The Code of the City of Roanoke, 1979, as amended, to reflect amendments to Section 9.1-106 of the Code of Virginia, 1950, as amended, thereby providing for a \$3.00 assessment fee to be imposed in every court case in which costs are assessable, with funds collected to be used solely for relocation of the Roanoke Training Academy, effective November 1, 2003.

Mr. Harris offered the following ordinance:

(#36522-102303) AN ORDINANCE amending Chapter 1, General Administration, of the Code of the City of Roanoke (1979), as amended, by the addition of a new §123, Assessment of court costs to support local criminal justice academy, providing for assessment by the City of a fee to provide funding to support the City's criminal justice academy, pursuant to §9.1-106, Code of Virginia (1950), as amended; dispensing with the second reading of this ordinance and providing for an effective date.

(For full Ordinance, see Ordinance Book No. 68.)

Mr. Harris moved the adoption of Ordinance No. 36522-102303. The motion was seconded by Mr. Fitzpatrick.

Mr. E. Duane Howard, 508 Walnut Avenue, S. W., expressed concern that citizens were not advised of the proposed fee increase prior to the matter appearing on the City Council agenda. He advised that the proposed fee will represent another tax that the City administration is recommending to be placed on the citizens of Roanoke, and requested that Council delay action on the proposed fee to allow time for the matter to be presented to the citizens of Roanoke.

Ordinance No. 36522-102303 was adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

DIRECTOR OF FINANCE:

HOUSING/AUTHORITY-CENTURY STATION PARKING GARAGE: The Director of Finance submitted a written report advising that in 1992, the City of Roanoke entered into a capital lease with the Roanoke Redevelopment and Housing Authority (Housing Authority) for the lease of Century Station Parking Garage; the Housing Authority, in turn, issued taxable revenue bonds to finance construction of the facility; bonds were due to mature in 2022, bearing interest of 9.15 per cent; the lease exercised between the City and the Housing Authority established monthly lease payments from the City which would cover required payments to bondholders; and the agreement provided the City with the opportunity to exercise a bargain purchase option at the end of the lease term to acquire title to the garage.

It was further advised that in July, the City fully paid the outstanding lease amount to the Housing Authority; the Authority, in turn, used the funding to redeem outstanding bonds, which was made to eliminate future interest cost on the bonds; a significant savings was created in light of the relatively high interest rate on the taxable revenue bonds, redemption of the bonds was funded by debt service funding which has been accumulated in the City's General Fund in anticipation of future bond issuance; interest cost avoidance of \$1.9 million is estimated as a result of the redemption of the indebtedness; and as a result of redemption of the capital lease and associated bonds, the lease agreement may now be terminated, and the City may take title to the property in accordance with stipulations as set forth in the lease agreement.

The Director of Finance recommended termination of the lease agreement dated March 23, 1992, between the City of Roanoke and the Housing Authority for lease of the Century Station Parking Garage; that the City Manager be authorized to accept conveyance of the garage to the City with general warranty to title, subject to all easements and encumbrances of record, after an acceptable environmental audit is completed, and to execute any necessary documents to terminate the existing lease of the property from the Roanoke Redevelopment and Housing Authority.

Mr. Harris offered the following ordinance:

(#36523-102303) AN ORDINANCE authorizing the termination of the Lease Agreement dated March 23, 1992, between the City of Roanoke Redevelopment and Housing Authority and the City of Roanoke, and any subsequent amendments thereto, for the Century Station Parking Garage; authorizing acceptance of the conveyance by the City of Roanoke Redevelopment and Housing Authority of such garage located at 25 Church Avenue, S. E., bearing Official Tax No. 4015004 to the City; and dispensing with the second reading by title of this ordinance.

(For full text of ordinance, see Ordinance Book No. 68.)

Mr. Harris moved the adoption of Ordinance No. 36523-102303. The motion was seconded by Mr. Fitzpatrick.

Mr. Bestpitch inquired as to the net effect on the City's fiscal year budget; whereupon, the Director of Finance advised that approximately \$1.9 million will be saved in future debt interest payments, or approximately \$360,000.00 per year.

Ordinance No. 36523-102303 was adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

REPORTS OF COMMITTEES:

BUDGET-SCHOOLS: A communication from the Roanoke City School Board requesting that Council approve a State Literary Fund loan application, in the amount of \$7.5 million, for improvements to Patrick Henry High School, which will increase the School Board's debt service expenditure by \$600,000.00, commencing in fiscal year 2005-06, but no debt service liability will be incurred until funds are drawn against the loan account, was before the body.

A report of the Director of Finance recommending that Council concur in the request of the School Board, was also before Council.

Mr. Dowe offered the following resolution:

(#36524-102303) A RESOLUTION authorizing the School Board for the City of Roanoke to make application for a loan from the State Literary Fund making permanent improvements to Patrick Henry High School.

(For full text of resolution, see Resolution Book No. 68.)

Mr. Dowe moved the adoption of Resolution No. 36524-102303. The motion was seconded by Mr. Cutler and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

BUDGET-SCHOOLS: A communication from the Roanoke City School Board requesting that Council approve the following appropriations and transfers, was before the body.

- **\$669,581.00 from the 2003-2004 Capital Maintenance and Equipment Replacement Fund to provide monies for instructional technology equipment.**
- **\$499,526.00 to provide funds for the Smaller Learning Community program at William Fleming High School; the program will provide for training of staff and establishment of smaller student learning communities within the high school, to be reimbursed by Federal funds.**
- **\$53,644.00 to provide funds for the Blue Ridge Technical Academy; the program will provide a business and technical education training program for a diverse population of students through a rigorous and challenging academic curriculum; and additional Federal charter school funds have been received for this continuing program.**

A report of the Director of Finance recommending that Council concur in the request of the School Board, was also before the body.

Mr. Harris offered the following ordinance:

(#36525-102303) AN ORDINANCE appropriating funding from the Capital Maintenance and Equipment Replacement Program (CMERP) and from two Federal grants, amending and reordaining certain sections of the 2003-2004 School Fund Appropriations and dispensing with the second reading by title of this ordinance.

(For full text of ordinance, see Ordinance Book No. 68.)

Mr. Harris moved the adoption of Ordinance No. 36525-102303. The motion was seconded by Mr. Dowe.

Council Member Cutler inquired about the Smaller Learning Community Program at William Fleming High School; whereupon, Crystal Cregger, Manager of Purchasing of Contract Services, Roanoke City Public Schools, advised that more information will be forwarded.

Ordinance No. 36525-102303 was adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

UNFINISHED BUSINESS: NONE.

INTRODUCTION AND CONSIDERATION OF ORDINANCES AND RESOLUTIONS:

COMMITTEES-INDUSTRIES: Mr. Dowe offered the following resolution appointing F. Gordon Hancock as a Director on the Board of Directors of the Industrial Development Authority of the City of Roanoke:

(#36526-102303) A RESOLUTION appointing a new Director of the Industrial Development Authority of the City of Roanoke, to fill a four (4) year term on the Board of Directors.

Mr. Dowe moved the adoption of Resolution No. 36526-102303. The motion was seconded by Mr. Harris and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

MOTIONS AND MISCELLANEOUS BUSINESS:

INQUIRIES AND/OR COMMENTS BY THE MAYOR, VICE-MAYOR AND MEMBERS OF CITY COUNCIL:

ACTS OF ACKNOWLEDGMENT-CITY COUNCIL-ECONOMIC DEVELOPMENT: Council Member Wyatt advised that she participated in a recent tour of the City of Roanoke with the Assistant City Manager for Community Development, along with an individual who is interested in constructing a head trauma facility in the City. She stated that the individual was impressed with the City of Roanoke and referred to Roanoke as the “best kept secret on the East Coast.” She advised that it is gratifying to hear positive remarks by out of state visitors on the beauty of the City of Roanoke and what the locality has to offer.

BUDGET-CITY COUNCIL: Vice-Mayor Harris referred to a letter setting forth proposed budget study dates for fiscal year 2004, and asked that Council Members advise the City Clerk of any conflicts by October 29, 2003.

POLICE DEPARTMENT-SCHOOLS: Vice-Mayor Harris, Chair, Organizing Committee, School Safety Task Force, presented a progress report on the work of the committee to date.

- The Organizing Committee consists of eight persons: Vice-Mayor C. Nelson Harris, Chair, Council Member Linda F. Wyatt, City Manger Darlene Burcham, Police Chief Joe Gaskins, Roanoke City School Board Chair Gloria Manns,

Roanoke City School Board Trustee Kathy Stockburger, Superintendent of Schools E. Wayne Harris, and Executive for Student Services Ann F. Harman

- **The Organizing Committee was charged with the responsibility of formulating a task force and developing a process by which the task force would begin its work.**
- **The Organizing Committee believes that it is important that it not be the group to select members of the task force; therefore, various organizations, faculty, Parent-Teacher Associations, students and other constituency groups were invited to select their representative(s). (A number of teachers at all levels, students, parents, and a person recommended by the Immigration Office will be represented. Membership will consist of a diverse group of individuals, all whom have a vested interest, either personally or professionally, in the operation of the school system.)**
- **Membership of the task force will be finalized within one week.**
- **The Organizing Committee agreed to engage the services of a facilitator to keep the task force on track.**
- **The Organizing Committee will be present at the initial meeting of the task force as an indication of support and to set the tone for the work that is to be done; and the Organizing Committee will then leave the task force to complete its assignment.**
- **The Organizing Committee will receive the final report of the task force and forward recommendations to the Council and to the School Board.**

- The task force will be involved in a number of activities in addition to regular meetings; and the public will be afforded the opportunity to share ideas and to provide input.
- The first meeting of the task force will be held on November 11, 2003, at 7:00 p.m., in the Community Room at the Higher Education Center.
- At the time of formation of the task force, it was indicated that the task force would complete its assignment by December 31, 2003; however, given the time that was taken by the Organizing Committee to address various issues and to solicit representatives from the various organizations, the task force will complete its assignment in approximately a 15 week period, with a final report to be submitted in February 2004.
- Composition of the task force will be provided to the Council within one week.

VIRGINIA MUNICIPAL LEAGUE-CITY MARKET-ACTS OF ACKNOWLEDGMENT: Council Member Bestpitch commended and expressed appreciation to City staff who volunteered their time for the Virginia Municipal League Host City Night which was held on Monday, October 20, 2003, on the City Market.

PARKS AND RECREATION-ACTS OF ACKNOWLEDGMENT-TREES: Council Member Bestpitch advised that as a part of the City's Urban Forestry Program, he was pleased to plant the inaugural tree earlier in the day in Highland Park in memory of his two grandfathers. He encouraged citizens of Roanoke to plant a tree on public property in the City of Roanoke to commemorate a special event, or in memory of a loved one.

VIRGINIA MUNICIPAL LEAGUE-ACTS OF ACKNOWLEDGMENT: Council Member Cutler recognized the work of City employees in connection with the Virginia Municipal League Annual Conference, and as authors of well written articles that were published in the VML Magazine, *Virginia Town and City*, which highlighted the City of Roanoke.

ACTS OF ACKNOWLEDGMENT-NEWSPAPERS: Council Member Dowe congratulated The Roanoke Times upon the grand opening of its new print facility last week.

(Council Member Wyatt left the meeting.)

HEARING OF CITIZENS UPON PUBLIC MATTERS: The Mayor advised that Council sets this time as a priority for citizens to be heard, and matters requiring referral to the City Manager will be referred immediately for any necessary and appropriate response, recommendation or report to Council.

COMPLAINANTS-ARMORY/STADIUM-ENVIRONMENTAL POLICY: Ms. Evelyn D. Bethel, 35 Patton Avenue, N. E., spoke with regard to leadership and character. She advised that citizens have been told that hazardous waste material is buried on the proposed site of the new stadium/amphitheater on Orange Avenue and Williamson Road; whenever citizens believe that their lives and the lives of future generations may be endangered by hazardous waste materials, it is their responsibility to bring the matter to the Council's attention, and it is the responsibility of Council to resolve the issue; therefore, the citizens of Roanoke ask that the site be tested to ensure that it is environmentally safe.

COMPLAINTS-ARMORY/STADIUM-HOUSING AUTHORITY-ENVIRONMENTAL POLICY: Ms. Helen E. Davis, 35 Patton Avenue, N. E., spoke with regard to the disappointment of many citizens concerning the individual votes of Council Members on the proposed new stadium/amphitheater on Orange Avenue and Williamson Road, and asked that the City ensure that the site is safe through performance of an environmental impact assessment. She advised that residents of Lincoln Village/Lincoln Terrace are experiencing serious maintenance problems and are concerned that storm/screen doors have not been installed on housing units. She stated that as representatives of the Lincoln Congress work with Congressman John Warner's Office, it is believed that the issue will be addressed.

CITY MANAGER COMMENTS:

VIRGINIA MUNICIPAL LEAGUE-ACTS OF ACKNOWLEDGMENT-WATER RESOURCES: The City Manager expressed appreciation to those City employees who volunteered their time for a successful Virginia Municipal League Host City Night on Monday, October 20, 2003, on the City Market. She advised that as a part of the Annual Conference, a tour was conducted of the City's new water filtration system and plant at Crystal Spring and the restored pumping station.

At 3:20 p.m., the Mayor declared the meeting in recess for one City Manager briefing and one Closed Session.

At 3:25 p.m., the Council meeting reconvened in the Council's Conference Room for one briefing.

ZONING: The City Manager introduced a briefing on the Zoning Ordinance update as some relates to supplemental regulations.

Nancy Snodgrass, City Planner II, advised that supplemental regulations are regulations that apply to specific uses, structures or facilities that are applied in addition to applicable district regulations and general development standards.

- The following uses constitute a need for Supplemental Regulations: traffic, circulation on site, setbacks, screening, proximity to similar facilities, density, and impacts on adjacent properties.
- Examples of uses subject to supplemental regulations are adult uses, bed and breakfast, day care facilities, junk yards, mini-warehouses, towing service, townhouses, wrecker service, drive-through facilities, telecommunications, home occupations, and group care facilities.
- Drive-through facilities:

Current Code: No supplemental regulations

Draft:

Supplemental regulations applicable to any drive- through facility (fast food, pharmacy, bank, dry cleaners)

Permit by right rather than by special exception subject to supplemental standards

Purpose of supplemental regulations:

Minimize impact of vehicular traffic

Promote safe, on-site vehicular and pedestrian circulation

Minimize negative impacts on abutting residential properties

Proposed regulations:

Minimum number of stacking spaces (five per window)

Stacking lane design and articulation

Access to parking spaces

Circulation aisles or pedestrian movement

Separation of vehicles

Location of menu boards and speakers relative to residential zoned properties

Size and screening of menu boards:

Maximum 30 square feet

Maximum six feet in height

Screened from public street and residential zoned properties

- **Telecommunications Facilities/Broadcasting Towers:**

Current Code: No supplemental regulations; permitted by special exception

Draft: Supplemental regulations to promote collocation and minimize impacts; permitted by special exception

Includes telecommunications towers and radio/television broadcasting towers

Purpose:

Encourage collocation of equipment

Establish buffering and compatibility standards

Protect character of residential districts

Provide for removal of discontinued towers

Proposed regulations:

Towers to accommodate at least three other providers

Maximum height of tower and associated antenna a condition of special exception, but in no case to exceed 199 feet

Setbacks to conform to underlying zoning district regulations, but no facility or tower abutting a residential district to be set back less than 50 feet or 40 per cent of height of tower, whichever is less

Dismantling/removal of towers:

Within 90 days of not being used

Bond or performance guarantee may be required

Fee for independent analysis

Applicant to provide:

Computerized terrain analysis

Accurate to scale, photographic simulations

Balloon test or other visibility-related test

- **Home Occupations:**

Current Code: Includes supplemental regulations

Only family residents, except personal service

25 per cent of gross floor area

No change in outside appearance

No visible display of goods

Within principal dwelling

No outdoor storage

Draft:

Maintain integrity of surrounding residential uses

Ensure sufficient flexibility for residents with home occupation permits

Clarify issues existing in current code

Existing Issues:

Employee from outside home

Amount of gross floor area

Principal vs. accessory structure

More definitive standards

Trips to the home

Proposed regulations:

Home occupations by right

**Personal service home occupations by special exception
Personal Service home occupation (by special exception)
25 per cent, or 250 square feet, of finished floor area**

one entrance

one client at a time

one outside employee

Home occupation (by right)

No more than 20 per cent of finished floor area

No employee from outside

Conducted entirely within principal structure

No signs or change in outside appearance

- **Group Care Facilities:**

Current Code:

Supplemental regulations to ensure compatibility with neighborhood and to establish quality of service to users of facilities. Delineates requirements between lower density residential districts and higher density residential or commercial districts

Draft: Clarify definitions

Protected class

Group care facilities subject to regulations

Groupcare home

Halfway house

Congregate home

Nursing home

Transitional living facility

Proposed regulations:

Maintain 1,500 feet spacing requirement

Maximum occupant ratio by district

Open space per occupant

Buffering of on-site parking and exterior activity areas from adjoining properties

At 4:20 p.m., the Council convened in Closed Session in the Council's Conference Room.

At 5:20 p.m., the meeting reconvened in the Council Chamber, with all Members of the Council in attendance, except Council Member Wyatt, Mayor Smith presiding.

COUNCIL: With respect to the Closed Meeting just concluded, Mr. Bestpitch moved that each Member of Council certify to the best of his or her knowledge that: (1) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act; and (2) only such public business matters as were identified in any motion by which an Closed Meeting was convened were heard, discussed or considered by the City Council. The motion was seconded by Mr. Fitzpatrick and adopted by the following vote:

AYES: Council Members Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----6.

NAYS: None-----0.

(Council Member Wyatt was absent.)

COMMITTEES-ARCHITECTURAL REVIEW BOARD: The Mayor advised that there is a vacancy on the Architectural Review Board; whereupon, he opened the floor for nominations.

Mr. Harris placed in nomination the name of Jon Stephenson.

There being no further nomination, Mr. Stephenson was appointed as a member of the Architectural Review Board, for a term ending October 1, 2007, by the following vote:

FOR MR. STEPHENSON: Council Members Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----6.

(Council Member Wyatt was absent.)

OATHS OF OFFICE-YOUTH-COMMITTEES: The Mayor advised that the three year term of office of Krista Blakeney as a member of the Youth Services Citizen Board expired on May 31, 2003; whereupon, he opened the floor for nominations to fill the vacancy.

Mr. Harris placed in nomination the name of Krista Blakeney.

There being no further nominations, Ms. Blakeney was reappointed as a member of the Youth Services Citizen Board, for a term ending May 31, 2006, by the following vote:

FOR MS. BLAKENEY: Council Members Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----6.

(Council Member Wyatt was absent.)

COMMITTEES-CABLE TELEVISION: Mr. Harris moved that Council concur in the appointment of Laurie Wood, Public Information Specialist, as the City Manager's designee to the Roanoke Regional Cable Television Committee.

COMMITTEES-ROANOKE CIVIC CENTER-OATHS OF OFFICE: The Mayor advised that there is a vacancy on the Roanoke Civic Center Commission for a term ending September 30, 2006; whereupon, he opened the floor for nominations.

Mr. Harris placed in nomination the name of Debbie Conner.

There being no further nominations, Ms. Conner was appointed as a member of the Roanoke Civic Center Commission for a term ending September 30, 2006, by the following vote:

FOR MS. CONNER: Council Members Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----6.

(Council Member Wyatt was absent.)

Inasmuch as Ms. Conner is not a resident of the City of Roanoke, Mr. Harris moved that the City residency requirement be waived. The motion was seconded by Mr. Dowe and adopted.

COMMITTEES-ROANOKE VALLEY RESOURCE AUTHORITY-OATHS OF OFFICE: The Mayor advised that the four year term of office of Bittle W. Porterfield, III, as a member of the Roanoke Valley Resource Authority will expire on December 31, 2003; whereupon, he opened the floor for nominations to fill the vacancy.

Mr. Harris placed in nomination the name of Bittle W. Porterfield, III.

There being no further nominations, Mr. Porterfield was reappointed as a member of the Roanoke Valley Resource Authority for a term ending December 31, 2007, by the following vote:

FOR MR. PORTERFIELD: Council Members Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----6.

(Council Member Wyatt was absent.)

At 5:25 p.m., the Mayor declared the meeting in recess until 7:00 p.m., in the City Council Chamber.

At 7:00 p.m., on Thursday, October 23, 2003, the Council meeting reconvened in the City Council Chamber, fourth floor, Noel C. Taylor Municipal Building, 215 Church Avenue, S. W., City of Roanoke, Virginia, with Mayor Ralph K. Smith presiding.

PRESENT: Council Members William D. Bestpitch, M. Rupert Cutler, Beverly T. Fitzpatrick, Jr., C. Nelson Harris, Linda F. Wyatt and Mayor Ralph K. Smith-----6.

ABSENT: Council Member Alfred T. Dowe, Jr.-----1.

OFFICERS PRESENT: Darlene L. Burcham, City Manager; William M. Hackworth, City Attorney; Jesse A. Hall, Director of Finance; and Mary F. Parker, City Clerk.

The meeting was opened with prayer by Mayor Smith.

The Pledge of Allegiance to the Flag of the United States of America was led by Mayor Smith.

PUBLIC HEARINGS:

ZONING: Pursuant to Ordinance No. 25523 adopted by the Council on Monday, April 6, 1981, the City Clerk having advertised a public hearing for Thursday, October 23, 2003, at 7:00 p.m., or as soon thereafter as the matter may be heard, on a request of Murray E. and Patricia B. Joiner to amend proffered conditions presently binding upon a tract of land located at 3034 Brambleton Avenue, S. W., Official Tax No. 1650903, as set forth in Ordinance No. 35218-030501, adopted by Council on March 5, 2001, the matter was before the body.

Legal advertisement of the public hearing was published in *The Roanoke Times* on Friday, October 3, and Friday, October 10, 2003.

The City Planning Commission submitted a written report advising that the subject property, which consists of 1.103 acre, is located near the City limits and has 159 feet of frontage on Brambleton Avenue; a 1,311-square foot, one story single-family residential structure is located on the site; the wood frame, vinyl-sided house was constructed in 1943; as a part of the conditional C-2 rezoning approved in 2001, the petitioner proposed to permit the operation of a C-2 commercial use, limited by proffer, in the existing house on the site; and with the current petition to amend proffers, the petitioner plans to demolish the residential structure for the purpose of constructing of an office building as conditioned by the new proffers.

It was further advised that the request to amend proffered conditions is consistent with Vision 2001-2020's policies of encouraging commercial development in appropriate areas and utilizing more fully the City's commercial sites, while protecting the integrity of existing residential neighborhoods; and the subject property is appropriate for office use as limited by the proffered conditions, which address development and use of the property in relation to the adjacent residential neighborhood.

- The proffered conditions related to square footage and height of the proposed building are appropriate and comparable in terms of intensity (size, scale, and floor area ratio) of development that currently exists along this section of Brambleton Avenue.
- Establishment of a vegetative landscape buffer, including the retention of existing trees within 25-foot deep buffer yards along the eastern boundary and the rear of the property, minimize any conflict between the residential neighborhood and proposed office development.
- The proffered office uses are consistent with the commercial node and are compatible with the adjacent residential neighborhoods.

Given the proffered uses, the City Planning Commission recommended that Council approve the requested amendment of proffers.

Mr. Harris offered the following ordinance:

(#36527-102303) AN ORDINANCE to amend §§36.1-3 and 36.1-4, Code of the City of Roanoke, (1979), as amended, and Sheet No. 165, Sectional 1976 Zone Map, City of Roanoke, in order to amend certain conditions presently binding upon certain property previously conditionally zoned from RS-3, Single-Family Residential District, to C-2, General Commercial District; and dispensing with the second reading by title of this ordinance.

(For full text of Ordinance, see Ordinance Book No. 68.)

Mr. Harris moved the adoption of Ordinance No. 36257-102303. The motion was seconded by Mr. Cutler.

Sean Horn, representing Balzar and Associates, and the petitioner, appeared before Council in support of the request.

The Mayor inquired if there were persons present who would like to be heard in connection with the matter. There being none, he declared the public hearing closed.

There being no discussion or comments by Council Members, Ordinance No. 36527-102303 was adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Fitzpatrick, Harris, and Mayor Smith-----6.

NAYS: None -----0.

(Council Member Dowe was absent.)

STREETS AND ALLEYS: Pursuant to Ordinance No. 35523 adopted by the Council on Monday, April 6, 1981, the City Clerk having advertised a public hearing for Thursday, October 23, 2003, at 7:00 p.m., or as soon thereafter as the matter may be heard, on a request of Member One Federal Credit Union to permanently vacate, discontinue and close a portion of Gilmer Avenue, N. E., running in a westerly direction from 4th Street to an existing cul-de-sac, the matter was before the body.

Legal advertisement of the public hearing was published in *The Roanoke Times* on Friday, October 3, 2003, and Friday, October 10, 2003.

The City Planning Commission submitted a written report advising that the petitioner requests closure of a portion of Gilmer Avenue, N. E., lying between two of its parcels of land; the petitioner has operated a branch credit union on Official

Tax No. 3015008 since 1987; the petitioner purchased the adjoining property, Official Tax No. 3014017 on July 15, 2003; asbestos removal from the hotel building on Official Tax No. 3014017 has been completed, and demolition of the structure is currently underway.

It was further advised that vacation of the portion of Gilmer Avenue would allow the petitioner to combine the adjoining parcels into one contiguous site for further development; the petitioner plans to build an addition to the existing building which will span part of what is now Gilmer Avenue; and the concept plan illustrates the following:

- Phase 1 (March 2004 - September 2004) - Construction of a four story parking deck that will provide 200 spaces.**
- Phase 2 (July 2004 - November 2004) - Construction of a two-story branch building with a drive through.**
- Phase 3 (November 2004 - May 2005) - Construction of a four-story “connector” building with an atrium onto its existing building.**
- Phase 4 (March 2005 - October 2005) - Construction of a two or three-story addition onto structures built in Phases 1 and 3.**

It was explained that the subject portion of Gilmer Avenue was part of the early street grid of the City, yet is no longer connected to the Gainsboro neighborhood due to development of Interstate 581 and the Roanoke Civic Center; thus, it is not fully interconnected in the street system; closure of the subject portion of Gilmer Avenue and the proposed development will not result in any inconvenience or disruption to vehicular circulation; and the cul-de-sac of Gilmer Avenue does not further the urban street design standards promoted by the City in Vision 2001 - 2020.

It was noted that while the petitioner’s proposal will eliminate several on-street parking spaces, the addition of a parking garage will minimize the amount of surface parking on the site; at present, the entire surface area of Official Tax No. 3014017 is paved; the petitioner’s existing building on Official Tax No. 3015008 has close to a zero lot line on the western and southern sides, with parking to the rear, and building an addition onto the existing building will require most of the surface parking to remain at the rear of the site; the proposal will further the economic development goals of Vision 2001-2020; and prior to Council’s consideration of the petition, an agreement will be developed between the City of Roanoke and the petitioner to ensure performance of the proposed development activities within specified time frames.

The City Planning Commission recommended that the portion of Gilmer Avenue, N. E., requested for closure, be sold for \$2.50 per square foot (or \$66,300.00) if no performance agreement is proposed when the matter is heard by Council.

Mr. Harris offered the following ordinance:

(#36528-102303) AN ORDINANCE permanently vacating, discontinuing and closing certain public right-of-way in the City of Roanoke, Virginia, as more particularly described hereinafter; and dispensing with the second reading of this ordinance by title.

(For full text of Ordinance, see Ordinance Book No. 68.)

Mr. Harris moved the adoption of Ordinance No. 36528-102303. The motion was seconded by Mr. Fitzpatrick.

Mr. C. John Renick, Attorney, representing the petitioner, advised that since the City Planning Commission's hearing, the hotel that was located contiguous to Gilmer Avenue has been demolished and his client wishes to proceed as soon as possible with the total project; and a performance agreement was drafted by the City Attorney's Office and the letter of credit will be delivered to the City at the time of execution of the performance agreement. He further advised that conditions as set forth by the City Planning Commission have been fulfilled with regard to a conceptual plan and are agreeable to the City and to Member One; therefore, he requested that Council approve the request for closure.

The Mayor inquired if there were persons present who would like to speak in connection with the public hearing; whereupon, Ms. Evelyn D. Bethel, 35 Patton Avenue, N. E., inquired as to the precise location of the property.

No other persons wishing to be heard, the Mayor declared the public hearing closed.

The City Manager submitted a communication advising that Member One Federal Credit Union located at 202 4th Street and 320 Kimball Avenue, N. E., is currently planning to expand its corporate operations; as such, Member One has sought to have a portion of Gilmer Avenue vacated (area of Gilmer Avenue, N. E., that intersects with 4th Street, situated between Official Tax Nos. 3015008 and 3014017), inasmuch as vacation of such portion of Gilmer Avenue will allow Member One to combine adjoining parcels into one contiguous site and permit development and expansion of Member One's downtown facilities; and if Council approves the street vacation, Member One plans to build additional structures on the site, including an addition to its existing building, which will provide for a span across part of the street vacation area.

It was further advised that the street vacation will allow Member One to make a significant investment in the downtown area and provide for the retention of job positions at its current location and approximately 75 new job positions are anticipated to be added; in anticipation of business expansion, Member One has requested that the City of Roanoke provide for the street vacation at no charge to Member One, provided that Member One will make an investment in the project; City

staff has negotiated a performance agreement with Member One which provides that Member One will make a minimum investment in the actual construction of the project, not including the cost of real property, of at least \$6 million on or before December 1, 2007; Member One will provide the City with a letter of credit in the amount of \$66,300.00, the value of the proposed vacation portion of Gilmer Avenue, to guarantee Member One's performance; if such investment is made, the City will return the letter of credit to Member One; and if the vacation of Gilmer Avenue does not take place, the performance agreement will be terminated.

The City Manager recommended that she be authorized to execute the performance agreement between the City of Roanoke and Member One Federal Credit Union, to be approved as to form by the City Attorney; and that she be further authorized to take such additional actions and to execute such documents as may be necessary to implement and to administer the performance agreement.

There being no questions or comments by Council Members, Ordinance No. 36528-102303 was adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Fitzpatrick, Harris, and Mayor Smith-----6.
NAYS: NONE -----0.

(Council Member Dowe was absent.)

Mr. Harris offered the following ordinance:

(#36529-102303) AN ORDINANCE authorizing the proper City officials to execute a Performance Agreement between the City of Roanoke (City) and Member One Federal Credit Union (Member One) that will provide for Member One to make a certain investment in the development of certain property in the 4th Street, Kimball Avenue, and Gilmer Avenue area; and dispensing with the second reading by title of this ordinance.

(For full text of ordinance, see Ordinance Book No. 68.)

Mr. Harris moved the adoption of Ordinance No. 36529-102303. The motion was seconded by Mr. Fitzpatrick and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Fitzpatrick, Harris, and Mayor Smith-----6.
NAYS: None-----0.

(Council Member Dowe was absent.)

ZONING: Pursuant to Ordinance No. 25523 adopted by the Council on Monday, April 6, 1981, the City Clerk having advertised a public hearing for Thursday, October 23, 2003, at 7:00 p.m., or soon thereafter as the matter may be heard, on a request of Malcolm M. Rosenberg to rezone property located at 2719 Colonial Avenue, S. W., Official Tax No. 1260808, and 2735 Colonial Avenue, S. W., Official Tax No. 1260804, from RS-3, Residential Single-Family District, to C-1, Office District, subject to certain conditions proffered by the petitioner, the matter was before the body.

Legal advertisement of the public hearing was published in *The Roanoke Times* on Friday, October 3, 2003, and Friday, October 10, 2003.

The City Planning Commission submitted a written report advising that the rezoning request is for two non-contiguous parcels located in the 2700 block of Colonial Avenue, S. W.; the first subject parcel is an 8,159 square-foot lot situated at 2719 Colonial Avenue, Official Tax No. 1260808; a 1,334 square-foot, one-story structure currently exists on the parcel; the wood-framed structure, with brick veneer siding, was built in 1962 and has been used by a fraternal organization; the second parcel is an approximately 10,568 square-foot lot located at 2735 Colonial Avenue, Official Tax No. 120804; a 924 square-foot structure currently exists on the parcel, and the vacant wood-frame structure was built in 1956 and is currently listed as a single-family use.

It was further advised that the application of C-1, Office District, to the subject properties would provide a greater consistency in zoning patterns along Colonial Avenue; the two parcels, together with three C-1, Office District, properties sandwiched between the two properties, would solidify the potential for a viable commercial/office/mixed use center and would allow for more effective utilization of the five parcels of land for development; in addition, the permitted uses of the C-1, Office District, which could include residential uses, would be compatible with existing land uses directly adjacent to, and across Colonial Avenue, which include small commercial establishments as well as office uses; and by solidifying the boundary line for commercial, office and mixed use development in this location, the C-1, Office District, would provide a transition zone buffer between the C-2, General Commercial District, to the northeast and the RS-3, Residential Single Family District, to the southwest.

The City Planning Commission recommended approval of the request to rezone 2719 Colonial Avenue, S. W., Official Tax No. 1260808; however, a motion to rezone 2735 Colonial Avenue, Official Tax No. 1260804, failed.

Mr. Harris offered the following ordinance rezoning 2719 Colonial Avenue, S. W., Official Tax No. 1260808:

(#36530-102303) AN ORDINANCE to amend §36.1-3, Code of the City of Roanoke (1979), as amended, and Sheet No. 126, Sectional 1976 Zone Map, City of Roanoke, to rezone certain property within the City; and dispensing with the second reading by title of this ordinance.

(For full text of ordinance, see Ordinance Book No. 68.)

Mr. Harris moved the adoption of Ordinance No. 36530-102303. The motion was seconded by Mr. Fitzpatrick.

Edward A. Natt, Attorney, representing the petitioner, advised that his client does not request the rezoning of 2735 Colonial Avenue, S. W., and seeks only to rezone 2719 Colonial Avenue, which request is supported by the City Planning Commission.

The Mayor inquired if there were persons present who would like to be heard in connection with the matter; whereupon, Mr. Willie A. Carr, 2739 Colonial Avenue, S. W., advised that he resides next door to 2735 Colonial Avenue and expressed concern with regard to the bank that was constructed in 1978 which blocks the rear view at 2735 Colonial Avenue.

It was clarified that the rezoning of 2735 Colonial Avenue is not before the Council for consideration.

There being no other persons wishing to be heard, the Mayor declared the public hearing closed.

Mr. Bestpitch advised that the City Planning Commission recommended approval of the rezoning on a 4-3 vote, which is an indication that there were serious concerns by at least three of the seven members of the City Planning Commission. He called attention to the lack of a proposed site plan for development of the four lots, and suggested that the matter be referred back to the City Planning Commission and to City staff to work with the petitioner on development of a proposed site plan. Without proffered conditions, he stated that he could not support the request for rezoning.

Mr. Townsend deferred to Mr. Natt inasmuch as the City Planning Commission cannot impose conditions on rezonings and proffers must be offered voluntarily by the petitioner. He explained that at the time of the City Planning Commission hearing it was indicated that the petitioner did not have a specific use or plan for the combination of the properties; therefore, the proposal went forward. He stated that City Planning staff supported the rezoning at 2719 Colonial Avenue, given the limited frontage along Colonial Avenue, the fact that C-2 zoning extends across the street, and property immediately to the north of the property in question is also zoned C-2.

Mr. Natt acknowledged that it is unusual to apply for a rezoning without submitting a site plan; however, in this particular case, his client owns three lots and was presented with the opportunity to acquire a fourth lot in order to provide for a better site than currently exists; and a user for the site has not been identified to date. He stated that C-2 use is directly across the street with no proffers, C-2 uses exist farther down the street with no proffers, his client can develop his three lots as C-1 which would result in a situation where there would be one small lot that

could potentially contain proffers, although using today’s standards, it would be difficult to construct anything on such a small lot. He advised that the situation is one of those rare circumstances where one small parcel of land is requested to be combined with three other parcels to make a larger and better parcel of land, and the petitioner can develop his currently owned three parcels of land, while the fourth parcel could remain unused. He added that it is also important to remember that the request is not for C-2 zoning, which is a more open classification, but for C-1 zoning which provides for office and institutional uses, and the difference between C-1 and C-2 zoning offers certain safeguards as to the type of development that will go on the site.

Ordinance No. 36530-102303 was adopted by the following vote:

AYES: Council Members Wyatt, Cutler, Fitzpatrick, Harris, and Mayor Smith-----5.

NAYS: Council Member Bestpitch-----1.

(Council Member Dowe was absent.)

STREETS AND ALLEYS: Pursuant to Ordinance No. 25523 adopted by the Council on Monday, April 6, 1981, the City Clerk having advertised a public hearing for Thursday, October 23, 2003, at 7:00 p.m., or as soon thereafter as the matter may be heard, on a request of 22 Luck Avenue, Inc., to permanently vacate, discontinue and close a certain portion of an alley lying between 16 and 22 Luck Avenue, S. W., and parcels identified as Official Tax Nos. 1012707 and 1012706, the matter was before the body.

Legal advertisement of the public hearing was published in *The Roanoke Times* on Friday, October 3, 2003, and Friday, October 10, 2003.

The City Planning Commission submitted a written report advising that the petitioner requests closure of a portion of the alley which is the remnant of a ten-foot wide north-to-south alley that originally extended to Luck Avenue; in 1994, the petitioner obtained, through vacation, all but this remaining portion of the alley; Council required the remaining portion of the alley to be left open for use as a turnaround for solid waste management vehicles serving the block; and the petitioner owns both adjoining parcels of land.

It was further advised that the adjoining properties are both zoned C-3, Central Business District, as are all properties in the immediate vicinity; the petitioner’s law offices are located on Official Tax No. 1012706; Official Tax No. 1012707 is the site of the petitioner’s parking lot; and several offices, parking lots and various other commercial establishments lie in the block of the subject alley.

It was explained that vacation of the subject alley would allow the petitioner to align the fencing that currently borders the subject alley with the alley that it adjoins, which would result in the petitioner gaining one parking spot within the fenced parking lot; and at present, the alley is used as a parking space, while not obstructing the east-to-west alley to which it is perpendicular.

The City Planning Commission recommended that Council approve the request, subject to certain conditions, and that the petitioner be charged \$2,100.00 for the alley, to which the petitioner has agreed.

Mr. Harris offered the following ordinance:

(#36531-102303) AN ORDINANCE permanently vacating, discontinuing and closing certain public right-of-way in the City of Roanoke, Virginia, as more particularly described hereinafter; and dispensing with the second reading of this ordinance by title.

(For full text of ordinance, see Ordinance Book No. 68.)

Mr. Harris moved the adoption of Ordinance No. 36531-102303. The motion was seconded by Mr. Fitzpatrick.

Raphael L. Ferris, Attorney, appeared before Council in support of the request.

The Mayor inquired if there were persons present who would like to be heard in connection with the matter. There being none, he declared the public hearing closed.

There being no discussion or questions by Council Members, Ordinance No. 36531-102303 was adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Fitzpatrick, Harris, and Mayor Smith-----6.

NAYS: None -----0

(Council Member Dowe was absent.)

EASEMENTS-PARKS AND RECREATION-ROANOKE GAS COMPANY:
Pursuant to instructions by the Council, the City Clerk having advertised a public hearing for Thursday, October 23, 2003, at 7:00 p.m., or as soon thereafter as the matter may be heard on the proposed conveyance of a ten-foot easement on property known as Jackson Park, identified as Official Tax No. 4130501, to Roanoke Gas Company, to relocate a high relief valve from the northern side of Morningside Street, S. E., the matter was before the body.

Legal advertisement of the public hearing was published in *The Roanoke Times* on Monday, October 13, 2003.

The City Manager submitted a communication advising that Roanoke Gas Company has requested a ten-foot by ten-foot easement on City-owned property located in Jackson Park, in order to relocate an eight-foot high relief valve from the northern side of Morningside Street; the valve will be set on a concrete pad to eliminate the need for mowing around the valve, which is acceptable to the Department of Parks and Recreation; and easement area is approximately 100 square feet.

The City Manager recommended, following the public hearing, that she be authorized to execute the appropriate documents granting the requested easement to Roanoke Gas Company, said document to be approved as to form by the City Attorney.

Mr. Harris offered the following ordinance:

(#36532-102303) AN ORDINANCE authorizing the donation and conveyance of a ten-foot by ten-foot easement, on City-owned property known as Jackson Park, identified by Official Tax No. 4130501, to Roanoke Gas Company, to relocate a five foot high relief valve from the northern side of Morningside Street, upon certain terms and conditions; and dispensing with the second reading by title of this ordinance.

(For full text of ordinance, see Ordinance Book No. 68.)

Mr. Harris moved the adoption of Ordinance No. 36532-102303. The motion was seconded by Mr. Cutler.

The Mayor inquired if there were persons present who would like to be heard in connection with the matter. There being none, he declared the public hearing closed.

There being no discussion or questions by Council Members, Ordinance No. 36532-102303 was adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Fitzpatrick, Harris, and Mayor Smith -----6.

NAYS: None-----0.

(Council Member Dowe was absent.)

LEASES-CITY PROPERTY: Pursuant to instructions by the Council, the City

Clerk having advertised a public hearing for Thursday, October 23, 2003, at 7:00 p.m., or as soon thereafter as the matter may be heard, on a proposed lease of 7.05 acres of City-owned property located along Back Creek in Roanoke County to a County resident for agricultural purposes, for a period of one year, with a renewal option for four additional one-year periods, and a 60-day mutual termination provision, the matter was before the body.

Legal advertisement of the public hearing was published in *The Roanoke Times* on Monday, October 13, 2003.

The City Manager submitted a communication advising that several properties along Back Creek in Roanoke County were acquired in the late 1970's to enable future development of a reservoir; there are no longer plans to develop the reservoir and the property is currently vacant; and an adjacent property owner to one of the parcels containing 12.17 acres (identified as Roanoke County Tax No. 089.00-03-36.00-0000) has requested an agricultural lease for a portion of the parcel containing approximately 7.05 acres to provide pasture for horses.

It was further advised that a portion of the 12.17 acre parcel is being used by the Department of Parks and Recreation as a tree farm; the 7.05 acres under consideration is not suitable for future expansion of the tree farm; leasing this portion of the parcel of land will eliminate the need for City staff to provide maintenance; the Lessee has agreed to make improvements to an existing road that is used to access the City's tree farm and will provide the necessary fencing to secure the pastureland and the tree farm; proposed lease rate will be \$100.00 per year; and in addition to erecting the necessary fencing, the Lessee will be responsible for maintaining the fencing and removing any fencing at the City's request, upon termination of the lease, and assume all liability for damage to and by the Lessee's actions or actions of the Lessee's livestock, machinery, equipment, employees, and guests, with liability insurance to be provided by the Lessee.

The City Manager recommended, following the public hearing, that she be authorized to execute the appropriate documents, to be approved as to form by the City Attorney, to lease the above described City-owned property for a one-year term, with four one-year renewal options and a 60-day mutual termination provision.

Mr. Fitzpatrick offered the following ordinance:

(#36533-102303) AN ORDINANCE authorizing the City Manager to enter into a lease with Sandra Rouse Reedy, for the lease of 7.05 acres of City-owned property located along Back Creek in Roanoke County, upon certain terms and conditions; and dispensing with the second reading by title of this ordinance.

(For full text of ordinance, see Ordinance Book No. 68.)

Mr. Fitzpatrick moved the adoption of Ordinance No. 36533-102303. The motion was seconded by Mr. Cutler.

The Mayor inquired if there were persons present who would like to be heard in connection with the matter. There being none, he declared the public hearing closed.

There being no discussion or questions by Council Members, Ordinance No. 36533-102303 was adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Fitzpatrick, Harris, and Mayor Smith -----6.

NAYS: None -----0.

(Council Member Dowe was absent.)

ZONING-SIGNS/BILLBOARDS/AWNINGS: Pursuant to Resolution No. 25523 adopted by the Council on Monday, April 6, 1981, the City Clerk having advertised a public hearing for Thursday, October 23, 2003, at 7:00 p.m., or soon thereafter as the matter may be heard, with regard to an amendment to Chapter 36.1, Zoning, Section 36.1-445(c), Additional sign regulations, subsection (c), Code of the City of Roanoke (1979), as amended, to address roof signs in the H-1, Historic District, the matter was before the body.

Legal advertisement of the public hearing was published in *The Roanoke Times* on Friday, October 3, 2003, and Friday, October 10, 2003.

The City Planning Commission submitted a written report advising that roof signs are currently prohibited in all zoning districts in the City of Roanoke; the proposed text amendment would remove the prohibition pertaining to existing roof signs located in, or located and relocated within, the H-1, Historic District; and parcels within the H-1, Historic District, are located within the core of downtown Roanoke.

It was further advised that Downtown Roanoke, Inc., has initiated an effort to relocate and to rehabilitate the H & C Coffee Sign located on the roof of a building at 102 Market Street; the sign, which has been in place in downtown for many decades, is of a unique neon design, material, and animation; its method of construction is rare by today's modern sign standards; the sign is currently in a state of disrepair and needs considerable rehabilitation; its relocation to another site in the H-1, Historic District, is under consideration so as to ensure long-term visibility and structural integrity and to return the sign to its original operational status; and because of the current prohibition regarding roof signs, the H & C Coffee Sign is a nonconforming sign and could not be rehabilitated and relocated as proposed.

It was explained that staff review of the H-1, Historical District, identified two

other existing roof signs that would become conforming under the proposed amendment; one is the Dr. Pepper sign at 115 Salem Avenue and the other is a roof outdoor advertising sign located at the rear of 102 Market Street; if the proposed amendment is approved, the subsequent relocation of any of these three existing roof signs would be limited to the area within the H-1, Historic District, and would require the granting of a Certificate of Appropriateness by the Architectural Review Board.

The City Planning Commission recommended approval of the proposed amendment, given the effort initiated by Downtown Roanoke, Inc., to rehabilitate and to relocate a sign of unique design, material, and construction, and the limited application of the amendment to the H-1, Historic District.

Mr. Bestpitch offered the following ordinance:

“AN ORDINANCE amending and reordaining §36.1-445, Additional sign regulations, Division 3, Sign Regulations, Article IV, Supplementary Regulations, of Chapter 36.1, Zoning, of the Code of the City of Roanoke (1979), as amended, by amending subsection (c) to permit roof signs within the H-1 Historic District, under certain conditions; and dispensing with the second reading by title of this ordinance.”

Mr. Bestpitch moved the adoption of the above referenced ordinance. The motion was seconded by Mr. Cutler.

R. Townsend, Agent to the City Planning Commission, advised that the amendment, initiated by the City Planning Commission, is a technical amendment that would allow for the refurbishment of existing roof signs in the H-1, Downtown Zoning District; and the matter was initiated at the request of Downtown Roanoke, Inc., which is undertaking an effort to renovate the H & C Coffee Sign and wishes to move the sign to another location. He further advised that prior to adoption of this amendment, because roof signs were prohibited, all roof signs were non-conforming and therefore could not be moved to another location. He stated that since the proposed amendment applies only to the H-1 District in downtown Roanoke, the H & C Coffee Sign and the Dr. Pepper Sign will both become conforming, and the H & C Coffee Sign can be renovated and relocated within the H-1 District.

David Diaz, President, Downtown Roanoke, Inc., advised that Downtown Roanoke has engaged Center in the Square, the Art Museum, the Historical Preservation Foundation and the Roanoke Arts Commission in a project to restore and relocate the H & C Coffee Sign, inasmuch as the proposed IMAX Theater and Art Museum will block the sign from view. He stated that Downtown Roanoke would like to relocate and retain the sign as a part of the downtown sky line; following adoption of the proposed amendment by Council, Downtown Roanoke, Inc., will meet with the owner of the sign to determine where the sign could potentially be relocated; and a private/public funding raising campaign is proposed. He advised that the goal of Downtown Roanoke, Inc., is to engage in a long term plan that would allow the sign to be donated to a non-profit organization that would be responsible

for maintaining the sign over the long term.

Mr. Fitzpatrick inquired as to where the H & C Coffee Sign is proposed to be relocated; whereupon, Mr. Diaz advised that he was not at liberty to comment on the proposed location because to do so would be unfair to the potential non-profit entity that would own the sign, and Downtown Roanoke, Inc., does not have an agreement with the non-profit entity at this time to actually accept the sign.

Out of fairness to Council and to Downtown Roanoke, Inc., Mr. Fitzpatrick advised that inasmuch as Council is being requested to address the issue of roof signs in the Downtown Historic District, Council should be privy to information on where the H & C Coffee Sign will be relocated, prior to voting on the proposed amendment. He advised that the H & C Coffee Sign is an icon in the City of Roanoke and he could not vote to give carte blanc approval.

Mr. Diaz advised that Center in the Square is the non-profit organization that Downtown Roanoke, Inc., has been working with, but no formal agreement has been executed to date; and the proposed zoning ordinance amendment will allow Downtown Roanoke to explore various options in terms of where the sign will be relocated which will be in a very limited and defined area.

Mr. Fitzpatrick offered a substitute motion that the ordinance be tabled for a period of 30 days, pending more precise information from Downtown Roanoke, Inc., with regard to actual relocation of the H & C Coffee Sign, and to identify the non-profit organization that will accept donation of the sign. The substitute motion was seconded by Mr. Harris.

Mr. Diaz clarified that Center in the Square is the only organization that has been approached in regard to accepting donation of the H & C Coffee Sign and the sign would be located on one of the two buildings owned by Center in the Square in the H-1 District; i.e: the Center in the Square building, or the former Shenandoah Hotel building.

If the H & C Coffee Sign were to blow over this evening, Council Member Bestpitch inquired as to what would happen under provisions of the existing ordinance; whereupon, Mr. Townsend advised that the sign is considered to be non-conforming at the present time and could not be reinstalled under provisions of the current ordinance. Mr. Bestpitch responded that there should be some capability in place to repair the sign in the event that it becomes necessary to do so.

Ms. Wyatt expressed concern with regard to the integrity of the H & C Coffee Sign, and advised that if the sign becomes a part of the top of Center in the Square, as opposed being located closer to eye level, the entire impact of the sign and what it means to the community will be dissipated. She stated that citizens have a visual image of the H & C Coffee Sign and how it is displayed in the community, which is a visual image that the community will expect to retain when the sign is refurbished and relocated. She advised that she understood the need to move on, but at the same time, it would be unfortunate to lose site of or control over a sign that has

become an icon.

Mr. Diaz advised that Downtown Roanoke, Inc., wishes to preserve the expectations of the community for the sign, with the understanding that the sign will be a vibrant part of the Downtown Roanoke skyline; certain risks are involved in moving the sign, Downtown Roanoke, Inc., is taking a risk in its efforts to raise \$100,000.00, and the owner of the H & C Coffee Sign is taking a risk in donating the sign. He stated that this is a community effort, the goal of which is to uphold the expectations of the community by preserving a landmark, or icon, in Downtown Roanoke.

The substitute motion lost by the following vote:

AYES: Council Members Wyatt, Fitzpatrick and Harris-----3.

NAYS: Council Members Bestpitch, Cutler and Mayor Smith-----3.

(Council Member Dowe was absent.)

So as not to have a divided vote on the proposed amendment, Mr. Diaz requested that Council table the ordinance and he would report to the Council after an agreement is reached with Center in the Square with regard to the proposed location of the H & C Coffee Sign.

In a discussion of the matter, Mr. Diaz advised that the total cost of renovating the H & C Coffee Sign is \$100,000.00, and an additional \$25,000.00 for a maintenance fund which should accrue interest at the rate that approximately \$1500.00 per month could be spent on maintenance; therefore, a \$125,000.00 fund raising campaign is proposed. Upon question, he indicated that a portion of the funding may be requested from the City of Roanoke.

Mr. Bestpitch moved that Council reconsider the motion to table the ordinance for a period of 30 days. The motion was seconded by Mr. Cutler and adopted.

The motion to table the ordinance for a period of 30 days was adopted.

TRANSPORTATION SAFETY-FIFTH PLANNING DISTRICT COMMISSION-STATE HIGHWAYS: The City Clerk having advertised a public hearing for Thursday, October 23, 2003, at 7:00 p.m., or as soon thereafter as the matter may be heard, on an endorsement of the draft 20-Year Long Range Transportation Plan for submission to the Roanoke Valley Area Metropolitan Planning Organization, the matter was before the body.

Legal advertisement of the public hearing was published in *The Roanoke Times* on Friday, October 17, 2003.

The City Manager submitted a written report advising that The Roanoke Valley Metropolitan Planning Organization (MPO) is scheduled to adopt a revised 20-Year

Long Range Transportation Plan (LRTP) at its November 6, 2003 meeting; the LRTP is a financially constrained plan that identifies the expected resources that will be available for transportation improvements and establishes a list of improvements that are to be implemented over the 20-year planning period; transportation improvement projects must be included in the LRTP before they can be added to the Virginia Department of Transportation's Six Year Plan, and the LRTP is routinely revised and comprehensively updated every three to five years.

It was further advised that the Virginia Department of Transportation (VDOT) provided both financial and transportation condition projections for the 20-year planning period; a work group was organized to discuss projections and to develop recommendations for Council's endorsement and submission to the MPO; members of the work group included the City Planning Commission's Transportation, Utilities and Facilities Committee, the City of Roanoke's MPO representatives, and key staff members (representing all modes of transportation, environmental quality, economic development, and city-wide comprehensive planning); and the work group evaluated information in light of the Comprehensive Plan's guidance and developed priorities and recommendations that are included in the Plan.

It was explained that the MPO must develop and maintain a LRTP with a 20-year planning horizon; transportation improvement projects must be included in the LRTP before they can be added to VDOT's Six Year Plan; neither Council's endorsement, nor the MPO's adoption, of the LRTP will obligate any LRTP project to be implemented, rather, such projects are made eligible for further consideration; and the work group has developed recommendations that are consistent with the guidance provided in the City's Comprehensive Plan and the MPO will adopt the LRTP during a public hearing (scheduled for November 6, 2003) at the conclusion of a 30-day public comment period.

The City Manager recommended, following the public hearing, that Council endorse, by resolution, the cover letter, Financially Constrained List, and Vision List for submission to the Roanoke Valley Area Metropolitan Planning Organization for consideration.

Mr. Bestpitch offered the following resolution:

(#36534-102303) A RESOLUTION concurring in a list of financially-constrained projects and recommended improvements for roadways in the City of Roanoke for further study in connection with the Long-Range Transportation Plan.

(For full text of resolution, see Resolution Book No. 68.)

Mr. Bestpitch moved the adoption of Resolution No. 36534-102303. The motion was seconded by Mr. Fitzpatrick.

The Mayor inquired if there were persons present who would like to be heard in connection with the matter. There being none, he declared the public hearing closed.

There being no discussion or questions by Council Members, Resolution No. 36534-102303 was adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Fitzpatrick, Harris, and Mayor Smith -----6.

NAYS: None-----0.

(Council Member Dowe was absent.)

HEARING OF CITIZENS UPON PUBLIC MATTERS: The Mayor advised that Council sets this time as a priority for citizens to be heard, and matters requiring referral to the City Manager will be referred immediately for any necessary and appropriate response, recommendation or report to Council.

COMPLAINTS-ARMORY/STADIUM: Mr. Robert Gravely, 729 Loudon Avenue, N. W., expressed concern with regard to barrels containing hazardous waste material that were uncovered as a part of the excavation process at the site of the proposed stadium/amphitheater at Orange Avenue and Williamson Road.

There being no further business, the Mayor declared the meeting adjourned at 8:30 p.m.

APPROVED

ATTEST:

Mary F. Parker
City Clerk

Ralph K. Smith
Mayor
